

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL WISTEHUFF,

Plaintiff,

v.

PORTFOLIO RECOVERY ASSOCIATES, LLC,

Defendant.

CIVIL ACTION 1:15-cv-05761

COMPLAINT

JURY TRIAL DEMANDED

**COMPLAINT FOR RELIEF PURSUANT TO THE FAIR DEBT COLLECTION
PRACTICES ACT**

Now COMES the Plaintiff, MICHAEL WISTEHUFF (“Michael”), by and through his attorneys, SULAIMAN LAW GROUP, LTD., complaining of the Defendant, PORTFOLIO RECOVERY ASSOCIATES, LLC (“Portfolio”) as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action for damages for Defendant’s violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq. (“FDCPA”).

JURISDICTION AND VENUE

2. This action arises under and is brought pursuant to the FDCPA. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. §1692 (FDCPA) and 28 U.S.C. §§1331, 1337, as this action arises under the laws of the United States.

3. Venue is proper in this Court pursuant to 28 U.S.C. §1391 as Defendant conducts business in the Northern District of Illinois and all of the events or omissions giving rise to the claim occurred within the Northern District of Illinois.

PARTIES

4. Michael is a natural person who resides in the Northern District of Illinois and is a “consumer” as defined by the FDCPA, 15 U.S.C. §1692a(3).

5. At all times relevant to the action, Portfolio was a Delaware limited liability company with headquarters located at 120 Corporate Boulevard, Norfolk, Virginia 23502.

6. Portfolio is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6) because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts.

FACTS SUPPORTING CAUSE OF ACTION

7. Portfolio has been attempting to collect from Michael an alleged consumer debt in the amount of \$944.78.

8. On October 30, 2014, Portfolio filed a complaint in the McHenry County Courthouse in Woodstock, Illinois against Michael. The McHenry County Courthouse in Woodstock is located within the Twenty-Second Judicial Circuit in Illinois. The case was captioned *Portfolio Recovery Associates, LLC v. Michael Wistehuff*, case number 14 SC 2959 (“Collection Case”). *See* Group Exhibit A, a true and correct copy of the summons, civil process proof of service, and the collection complaint.

9. Portfolio filed the Collection Case at the McHenry County Courthouse. *Id.*

10. Michael resides at 1410 Brandywine Cir., Algonquin, Illinois 60102. *Id.*

11. Michael’s residence, at 1410 Brandywine Cir., Algonquin, Illinois 60102, is located within Kane County, Illinois. *Id.*

12. The Sixteenth Judicial Circuit Court serves Kane County and is located in Geneva, Illinois. *Id.*

13. Porfolio filed the collection case in a McHenry County court house, part of the Twenty-Second Judicial Circuit, instead of filing the collection case in the Sixteenth Judicial Circuit in Kane County.

14. Michael never signed the contract in question in McHenry County, Illinois.

COUNT I -- VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

15. Michael repeats and realleges paragraphs 1 through 14 as though fully set forth herein.

16. The Collection Case was an attempt to collect a “consumer debt” as defined by the FDCPA, 15 U.S.C. §1692a(5).

17. 15 U.S.C. §1692i(a)(2) requires that a debt collector sue a consumer in the judicial district or similar legal entity where the consumer resides at the commencement of the action.

18. 15 U.S.C. §1692i(a)(2) of the FDCPA prohibits *any legal action* brought by a debt collector in a location other than where the contract was signed or where the consumer resides.

19. Michael resides in Kane County, not in McHenry County. *See* Group Exhibit A.

20. Michael never signed the contract in question in McHenry County.

21. Portfolio sued Michael in McHenry County in order to discourage him from appearing and defending the Collection Case.

22. Portfolio's unlawful collection activities constitute abusive forum-shopping in violation of the FDCPA.

WHEREFORE, Plaintiff, MICHAEL WISTEHUFF, respectfully requests that this Honorable Court enter judgment in his favor as follows:

- a. awarding Plaintiff statutory damages for the underlying FDCPA violations;
- b. awarding Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692; and
- c. awarding any other relief as this Honorable Court deems just and appropriate.

Dated: June 29, 2015

Respectfully Submitted,

/s/ Majdi Y. Hijazin
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